

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JASON DORTON,

Petitioner,

v.

KATHLEEN DICKINSON,

Respondent

No. C-98-2003 MMC

**ORDER GRANTING IN PART AND
DENYING IN PART PETITIONER'S
APPLICATION FOR LEAVE TO FILE
AMENDED PETITION AND FOR
EXTENSION OF TIME TO FILE
TRAVERSE AND REPLY
MEMORANDUM**

Before the Court is petitioner Jason Dorton's ("Dorton") "Application for Leave to File Amended Petition and for Extension of Time to File Traverse and Reply Memorandum" ("Application"), filed March 26, 2010. Respondent has not filed a response. Having read and considered the Application, the Court rules as follows:


1. To the extent the Application seeks an order allowing Dorton to file an amended petition to add a new claim or claims, the Application is hereby DENIED without prejudice to Dorton's filing a motion to amend pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, and attaching thereto a proposed First Amended Petition ("FAP"). See Mayle v. Felix, 545 U.S. 644, 655 (holding Rule 15(a) is "applicable to habeas proceedings"); see Civil L.R. 10-1(providing party seeking leave to file amended pleading must submit "proposed pleading").¹

¹In the absence of Dorton's submission of a proposed FAP, the Court is unable to determine whether any new claim or claims would be cognizable. See, e.g., 28 U.S.C. § 2254(b) (providing application for writ of habeas corpus "shall not be granted unless it appears that . . . the applicant has exhausted the remedies available in the courts of the State").

1 2. To the extent the Application seeks an extension of time to file a traverse and
2 reply memorandum, the Application is hereby GRANTED. Specifically, the deadline for
3 Dorton to file a traverse and reply memorandum is hereby EXTENDED to May 7, 2010.²

4 **IT IS SO ORDERED.**

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6 Dated: April 5, 2010


MAXINE M. CHESNEY
United States District Judge

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27 ²If, prior to May 7, 2010, petitioner files a motion to amend, the May 7, 2010 deadline
28 to file a traverse and reply memorandum will be vacated without further order of the court,
and will be reset, as necessary, following resolution of the motion to amend.